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PRACTICE LIMITED TO MATTERS BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

ADMITTED IN GEORGIA

TELEPHONE (703) 972-7941

June 24, 1993

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JUN 2 5 1993

Ms. Donna R. Searcy Secretary Federal Communications Commission 1919 M Street, N.W. Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

RE: Amendment of Section 73.202(b) FM Table of Allotments Berlin, De Forest and Waxtoma, Wisconsin De Forest Broadcasting Company, Petitioner

MM Docket Number 93-91(MM-8197)

Dear Ms. Searcy:

Transmitted herewith, on behalf of De Forest Broadcasting Company, are an original and six copies of its "Reply Comments" to the "Counterproposal" filed by Wautoma Radio Company, in connection with the above-identified Rule Making proceeding.

Should any questions arise concerning this matter, please contact the undersigned, directly.

Respectfully submitted,

Bv:

Richard H. Hayes, Jr., Esq.

Counsel to De Forest Broadcasting

Company

RJH:lss Enclosure

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## FEDERAL COMMUNICATIONS COMMISSION WASHINGTON D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

		- /
In the Matter of	)	
	) MM Docket No. 93-91	
Amendment of Section 73.202(b),	)	$\neg$
Table of Allotments,	) RM No. 8197	/
FM Broadcast Stations	)	
(Berlin, De Forest and Wautoma,	)	
Wisconsin)	}	

TO: Chief, Allocations Branch Policy and Rules Division Mass Media Bureau

#### REPLY COMMENTS OF DE FOREST BROADCASTING COMPANY

Comes now, De Forest Broadcasting Company, Petitioner, through counsel, with "Reply Comments" in the above-captioned proceeding. On June 11, 1993, Julie A. Blaser d/b/a Wautoma Radio Company ("WRC") submitted a "Counterproposal" in MM Docket 93-91 (RM-8197) requesting Commission consideration of its proposal to upgrade the construction permit held by WRC for channel 226A to class C3 status on the permittee's co-channel. These "Reply Comments of De Forest Broadcasting Company" are submitted in response to that "Counterproposal."

The "Notice of Proposed Rule Making" established June 28, 1993 as the "Reply Comment" deadline in MM Docket 93-91. Accordingly, these "Reply Comments" are filed in a timely manner.

In its "Petition for Rule Making," De Forest Broadcasting Company requested Commission consideration of a proposal to add a first, local FM service to the city of De Forest, Wisconsin on channel 226A. This new FM

facility would provide 60 dBu coverage to 2,506 square kilometers and would, according to the 1990 U.S. census, serve a population in excess of 332,758 persons. To accommodate its proposal to allot channel 226A to De Forest, channel 226A at Wautoma would be replaced with channel 272A and channel 284A would have to be substituted for channel 272A at Berlin, Wisconsin. Channel 226A is the channel granted to WRC at Wautoma. That station has not yet been constructed and, if the proposal of De Forest Broadcasting Company is adopted through a Report and Order in this proceeding, the channel change required would cause no disruption of service. De Forest Broadcasting Company's proposal would also require the substitution of channel 284A for channel 272A at Berlin, Wisconsin and this change would affect radio station WISS-FM. De Forest Broadcasting Company has pledged to reimburse WISS for the reasonable and prudent out-of-pocket expenses associated with the channel change. Under this proposal, no area or population would lose any present or projected FM service and a substantial area would receive first, local service from a new FM station.

WRC's proposal merely seeks channel 226C3 as an upgraded facility for the present construction permit it holds for channel 226A at Wautoma, Wisconsin. Under the WRC proposal, De Forest, Wisconsin would receive no new, first local FM service. Consequently, WISS-FM would not be required to change channels. The net change in population projected to be served by the proposed upgrade at Wautoma would be insignificant when compared with the benefits to be obtained by a new, first local FM service at De Forest. As illustrated in the attached engineering statement prepared by Owl

Engineering, Inc., Minneapolis, Minnesota, the population to be served by a class C3 facility on channel 226 at Wautoma would be 70,976. The population to be served by a new, first local FM facility at De Forest would be 332,758. In other words, 292,109 more persons would benefit from a new FM facility at De Forest than would be served by a class C3 FM station at Wautoma. De Forest has no other AM or FM radio station.

Since there appear to be no other channels available for allotment at either De Forest or Wautoma, the Commission must comparatively consider the communities pursuant to the FM allotment priorities to determine which would warrant the allotment of a channel. The FM allotment priorities are:

(1) first full-time aural service; (2) second full-time aural service; (3) first local transmission service; (4) other public interest matters [coequal weight is given to priorities (2) and (3)]. (See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982)).

As stated above, De Forest Broadcasting Company proposed first local transmission service to De Forest, Wisconsin and WRC proposes an upgrade for its construction permit. Since provision of first local transmission service fulfills a higher allotment priority than improvement of an existing service, the public interest would be served by the allotment at De Forest.

Therefore, it is respectfully requested that the original "Petition for Rule Making" submitted by De Forest Broadcasting Company for a new,

first local FM facility at De Forest be GRANTED and the "Counterproposal" of Wautoma Radio Company be denied.

Respectfully submitted,

De Forest Broadcasting Company

y: Hayes

Richard (J. Hayes, Jr. Its Attorney

Date: June 17, 1993

Richard J. Hayes, Jr., Esq. 13809 Black Meadow Road Spotsylvania, Virginia 22553

(703) 972-2690

### CERTIFICATE OF SERVICE

	I, Linda Simms, Assistant to Richard J. Hayes, Jr., Esq., hereby
	certify that copies of the foregoing were sent via first class mail,
<u></u>	postage prepaid, or as otherwise indicated, to each of the following, on
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ENGINEERING STATEMENT
ON BEHALF OF DEFOREST BROADCASTING CO.
IN SUPPORT OF REPLY COMMENTS
AMENDMENT OF THE FM TABLE OF ALLOTMENTS
CHANNEL 226A DEFOREST, WISCONSIN

June 18, 1993

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# ENGINEERING STATEMENT ON BEHALF OF DEFOREST BROADCASTING CO. IN SUPPORT OF REPLY COMMENTS AMENDMENT OF THE FM TABLE OF ALLOTMENTS CHANNEL 226A DEFOREST, WISCONSIN

Owl Engineering, Inc. has been retained by DeForest Broadcasting Co. (hereafter "DeForest") to prepare this Engineering Statement in support of reply comments in response to the counterproposal filed regarding the Petition for Rule Making; MM Docket No. 93-91.

DeForest has proposed amending the FM table of allotments, FCC Rule Section 73.202 as follows:

Location	<u>Present</u>	<b>Proposed</b>
DeForest, WI		226A
Wautoma, WI	226A	272A
Berlin, WI	272A	284A

Wautoma Radio Company (hereafter WRC) has offered a counterproposal to DeForest's original proposal as follows:

<b>Location</b>	<u>Present</u>	<u>Proposed</u>
DeForest, WI		
Wautoma, Wi	226A	226C3
Berlin, WI	272A	272A

	ENGINEERING	STATEMENT	
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# ENGINEERING STATEMENT ON BEHALF OF DEFOREST BROADCASTING CO. IN SUPPORT OF REPLY COMMENTS AMENDMENT OF THE FM TABLE OF ALLOTMENTS CHANNEL 226A DEFOREST, WISCONSIN

A comparison of the two mutually exclusive proposals was completed to determine the service benefit of each proposal.

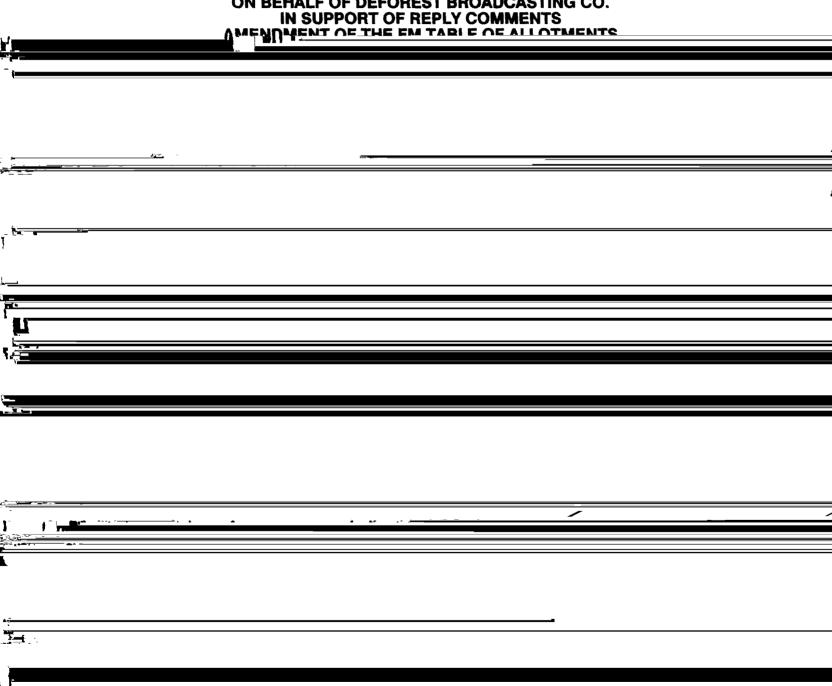
A population count with the predicted 60 dBu contour of the proposed stations at DeForest and Wautoma was completed. The distance to the 60 dBu contour for each proposal was calculated assuming a maximized facility at the respective reference coordinates of each proposal. The data obtained from the analysis is tabulated below:

	60 dBu Coverage	
Site	km <sup>2</sup>	Population Served
DeForest	2,506	332,758
Wautoma (A)	2,491	30,327
Wautoma (C3)	4,757	70,976

Based on the numbers above, it can be determined that the counterproposal offered by WRC increases the population predicted to receive 60 dBu service over what is currently authorized by 40,649 persons. However, the proposal of DeForest will increase the population predicted to receive 60 dBu service over what is currently authorized by 332,758 persons, 292,109 more persons that WRC's counterproposal.



### **ENGINEERING STATEMENT** ON BEHALF OF DEFOREST BROADCASTING CO. IN SUPPORT OF REPLY COMMENTS



# ENGINEERING STATEMENT ON BEHALF OF DEFOREST BROADCASTING CO. IN SUPPORT OF REPLY COMMENTS AMENDMENT OF THE FM TABLE OF ALLOTMENTS CHANNEL 226A DEFOREST, WISCONSIN

In addition to the reduced coverage area/population served with the WRC counterproposal, WRC did not demonstrate if a suitable site at New Holstein is available. It is the experience of the writer that the provisions of FCC Rule Section 73.215 do not always provide alternate sites for affected stations. In many cases, it is not technically feasible to specify a short spaced site of up to twelve kilometers due to principal city coverage requirements and restrictions on directional antennas. Such a situation will most likely require a directional antenna based on the experiences of this firm.

# ENGINEERING STATEMENT ON BEHALF OF DEFOREST BROADCASTING CO. IN SUPPORT OF REPLY COMMENTS AMENDMENT OF THE FM TABLE OF ALLOTMENTS CHANNEL 226A DEFOREST, WISCONSIN

Based on the engineering studies provided, the following conclusions can be obtained:

- 1. The proposal will provide DeForest with a first aural full time broadcast service.
- 2. The counterproposal offered by WRC will remove first aural service from DeForest while not providing additional service to any community.
- 3. 292,109 or more persons will be served by predicted 60 dBu service from the proposed operations at DeForest than that offered by WRC.
- 4. WRC has not demonstrated whether a suitable site at New Holstein, WI can be selected to conform to FCC Rules and Regulations



CONSULTING COMMUNICATIONS ENGINEERS

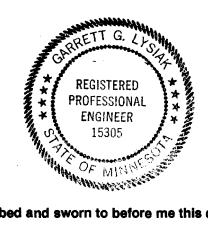
1306 W. County Road F, St. Paul, MN 55112 (612) 631-1338 • Fax (612) 631-3502

### **ENGINEERING STATEMENT** ON BEHALF OF DEFOREST BROADCASTING CO. IN SUPPORT OF REPLY COMMENTS AMENDMENT OF THE FM TABLE OF ALLOTMENTS **CHANNEL 226A DEFOREST, WISCONSIN**

### **AFFIDAVIT**

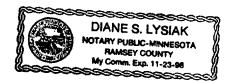
**RAMSEY COUNTY** 88: STATE OF MINNESOTA

Garrett G. Lysiak, being first duly sworn, says that he is president of Owl Engineering, inc., consulting communications engineers with offices in Arden Hills, Minnesota: that his qualifications as an expert in communications engineering are a matter of record with the Federal Communications Commission: that the foregoing exhibit was prepared by him and under his direction; and that the statements contained therein are true of his own personal knowledge except those stated to information and belief and, as to those statements, verily believes them to be true and correct.



Garrett G. Lysiak, P.E.

Subscribed and sworn to before me this date June 22, 1993



Delare S. Sypiah

Diane S. Lysiak **Notary Public**